

## **IC 4-4-26**

### **Chapter 26. Capital Access Program**

#### **IC 4-4-26-1**

##### **"Agreement" defined**

Sec. 1. As used in this chapter, "agreement" means an agreement between a lender and the authority under which a lender may participate in the program.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-2**

##### **"Amount" and "proceeds" defined**

Sec. 2. As used in this chapter in connection with a loan, "amount" and "proceeds" refer only to the amount covered under an agreement, unless the context clearly requires otherwise.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-3**

##### **"Authority" defined**

Sec. 3. As used in this chapter, "authority" refers to the Indiana development finance authority.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-4**

##### **"Borrower" defined**

Sec. 4. As used in this chapter, "borrower" means the recipient of a loan that is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:

(1) The borrower is a corporation, limited liability company, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, that is authorized to conduct business in Indiana.

(2) The borrower is not an executive officer, a director, or a principal shareholder of the lender, a member of the immediate family of an executive officer, a director, or a principal shareholder of the lender, or an entity controlled by an executive officer, a director, a principal shareholder, or a member of the immediate family.

*As added by P.L.16-1991, SEC.4. Amended by P.L.8-1993, SEC.18.*

#### **IC 4-4-26-5**

##### **"Capital access account" defined**

Sec. 5. As used in this chapter, "capital access account" means an account created by the authority for the purposes of the capital access program.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.6.*

**IC 4-4-26-6****"Claim" defined**

Sec. 6. As used in this chapter, "claim" means a claim filed by the lender under section 30 of this chapter.

*As added by P.L.16-1991, SEC.4.*

**IC 4-4-26-7****"Early loan" defined**

Sec. 7. As used in this chapter, "early loan" means an enrolled loan where at the time of enrollment the aggregate amount of previously enrolled loans made by the lender under the program was less than five million dollars (\$5,000,000).

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.7.*

**IC 4-4-26-8****"Eligible loan" defined**

Sec. 8. As used in this chapter, "eligible loan" means a loan made by the lender to a borrower that meets the requirements of sections 18 and 19 of this chapter.

*As added by P.L.16-1991, SEC.4.*

**IC 4-4-26-9****"Enrolled loan" defined**

Sec. 9. As used in this chapter, "enrolled loan" means a loan enrolled by the authority under the terms of section 20 of this chapter.

*As added by P.L.16-1991, SEC.4.*

**IC 4-4-26-10****"Lender" defined**

Sec. 10. As used in this chapter, "lender" means a financial institution (as defined in IC 5-13-4-10) that has entered into an agreement with the authority to participate in the program.

*As added by P.L.16-1991, SEC.4.*

**IC 4-4-26-11****"Passive real estate ownership" defined**

Sec. 11. As used in this chapter, "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include the following:

(1) Ownership of that part of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) Ownership of real estate for the purpose of construction or renovation until the completion of the construction or

renovation phase.  
*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-12**

##### **"Program" defined**

Sec. 12. As used in this chapter, "program" refers to the capital access program created by this chapter.  
*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-13**

##### **"Reserve fund" defined**

Sec. 13. As used in this chapter, "reserve fund" means an account established by the authority with funds accumulated under this chapter and to cover claims made by the lender under this chapter.  
*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.8.*

#### **IC 4-4-26-14**

##### **Establishment; purpose**

Sec. 14. The capital access program is established. The purpose of the program is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development in Indiana. Loans made under the program are to be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the program.  
*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-15**

##### **Duties of authority**

Sec. 15. The authority shall do the following:

- (1) Administer the program.
- (2) Market the program to businesses and other persons in Indiana in cooperation with financial institutions and statewide associations representing financial institutions.
- (3) If the reserve funds are not maintained in an account with the lender, upon execution of an agreement between the lender and the authority, the authority shall establish a reserve fund account at the authority for the lender for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the authority under this chapter. If the reserve funds are maintained in an account with the lender, upon execution of an agreement between the lender and the authority, the authority shall establish a reserve fund account with the lender in the name of the authority for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the authority

under this chapter.

(4) Develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the authority and the participating lenders is maximized, the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.

(5) Enter into any contracts necessary to carry out the program.

(6) Take any action reasonably necessary to ensure compliance with the program.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.9.*

#### **IC 4-4-26-16**

##### **Lender participation**

Sec. 16. A lender is eligible to participate in the program upon entering into an agreement with the authority governing the duties of the authority and the lender under the program. The lender shall provide the authority with information regarding the lender's participation in the program that the authority reasonably requires. Upon notice to the lender, the authority may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-17**

##### **Interest of authority in enrolled loans**

Sec. 17. Except upon the exercise of the authority's right of subrogation under section 34 of this chapter, the authority has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the authority's consent is not necessary for any amendment to the lender's loan documents.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-18**

##### **Eligible loans; criteria; terms and conditions**

Sec. 18. (a) The following types of loans are eligible loans under the program:

(1) Loans for industrial or commercial purposes.

(2) Loans to refinance loans made for the purposes in subdivision (1).

(3) Loans for line of credit agreements established between the lender and borrower that are used for the purposes in subdivision (1).

(b) Eligible loans must meet the following criteria:

(1) The lender has not made the loan to enroll in the program prior debt that is not covered under the program and that is or was owed by the borrower to the lender.

(2) The proceeds of the loan will not be used for that part of a project or development devoted to housing.

(3) The proceeds of the loan will not be used to finance passive real estate ownership.

(4) The proceeds of the loan will be used to finance a project or enterprise that is located in Indiana and that will foster economic development in Indiana.

(c) An eligible loan may provide for an interest rate, fees, and other terms and conditions agreed to by the lender and borrower. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-19**

##### **Loan enrollment form; certified recitals; time for filing**

Sec. 19. (a) To enroll a loan under the program, the lender must file a completed loan enrollment form with the authority. The lender must also certify the following to the authority as part of the filing:

(1) The lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 4 of this chapter.

(2) The lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans.

(3) The loan being filed for enrollment is an eligible loan under section 18 of this chapter.

(4) Premium charges required of the borrower and lender under this section have been deposited in the reserve fund.

(b) The lender shall file the loan enrollment form within ten (10) business days after the lender makes the loan. The date on which the lender makes a loan is the earlier of the date on which the lender first disburses proceeds of the loan to the borrower or the date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender does any of the following:

(1) Delivers the required documentation to the authority.

(2) Delivers the document to a professional courier service for

delivery to the authority.

(3) Mails the document to the authority by certified mail.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-20**

##### **Enrollment; acknowledgment**

Sec. 20. When the authority receives a loan enrollment form, the authority shall enroll the loan if the information provided under section 19 of this chapter indicates that the loan is an eligible loan. Within five (5) business days after receipt of a loan enrollment form for an eligible loan, the authority shall deliver to the lender an acknowledgment of enrollment signed by the authority or the authority's designee, including documentation of the amount being transferred by the authority into the reserve fund under this chapter.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-21**

##### **Specification of loan amount covered under program**

Sec. 21. When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-22**

##### **Refinanced loans**

Sec. 22. (a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.

(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the authority to the reserve fund.

(c) If an enrolled loan is refinanced in an amount exceeding the amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under section 19 of this chapter.

(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-23**

**Reduction of outstanding balance to zero; effect; bankruptcy preference**

Sec. 23. (a) If the outstanding balance of an enrolled loan that is not a line of credit is reduced to zero (0), the loan is no longer an enrolled loan. If an enrolled loan that is a line of credit has an outstanding balance of zero (0) for a twelve (12) month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the twelve (12) month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.

(b) Notwithstanding subsection (a), any amount recovered from a lender by a trustee in bankruptcy (or a similar representative of creditors) as a preference under 11 U.S.C. 547 remains an enrolled loan for the purpose of filing a claim against the reserve fund.

*As added by P.L.16-1991, SEC.4. Amended by P.L.27-1993, SEC.3.*

**IC 4-4-26-24**

**Reserve fund account established upon execution of agreement; purpose**

Sec. 24. Upon execution of an agreement between the lender and the authority, the authority shall establish a reserve fund account with the lender in the name of the authority for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the authority under this chapter.

*As added by P.L.16-1991, SEC.4.*

**IC 4-4-26-24.5**

**Acceptance of loans for enrollment; insufficient funds; restriction**

Sec. 24.5. The authority may not accept loans for enrollment in the program if the authority does not have sufficient funds to make the necessary transfer from the authority to the reserve fund under section 25 of this chapter.

*As added by P.L.18-1992, SEC.10.*

**IC 4-4-26-25**

**Premium charges; determination**

Sec. 25. The lender shall determine the premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment. The premium paid by the borrower may not be less than one and one-half percent (1.5%) or greater than three and one-half percent (3.5%) of the amount of the loan. The premium paid by the lender must be equal to the amount of the premium paid by the borrower. The lender may recover the cost of the lender's premium payment from the borrower in any manner on which the lender and borrower agree. When enrolling a loan, the authority must transfer into the reserve fund from the account premium amounts

determined as follows:

(1) If the amount of a loan, plus the amount of loans previously enrolled by the lender, is less than two million dollars (\$2,000,000), the premium amount transferred must be equal to one hundred fifty percent (150%) of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(2) If, before the enrollment of the loan, the amount of loans previously enrolled by the lender is equal to or greater than two million dollars (\$2,000,000), the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(3) If the aggregate amount of all loans previously enrolled by the lender is less than two million dollars (\$2,000,000), but the enrollment of a loan will cause the aggregate amount of all enrolled loans made by the lender to exceed two million dollars (\$2,000,000), the authority shall transfer into the reserve fund an amount equal to a percentage of the combined premiums paid into the reserve fund by the lender and the borrower. The percentage is determined as follows:

STEP ONE: Multiply by one hundred fifty (150) that part of the loan that when added to the aggregate amount of all loans previously enrolled by the lender totals two million dollars (\$2,000,000).

STEP TWO: Multiply the remaining balance of the loan by one hundred (100).

STEP THREE: Add the STEP ONE product to the STEP TWO product.

STEP FOUR: Divide the STEP THREE sum by the total amount of the loan.

The authority may transfer two (2) times the amount determined under this section to the reserve fund if the borrower is a disadvantaged business enterprise (as defined in IC 5-16-6.5-1). The authority may transfer three (3) times the amount determined under this section to the reserve fund if the borrower is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5). The authority may transfer to the reserve fund three (3) times the amount determined under this section if the borrower is a child care facility. Unless money is paid out of the reserve fund according to the specific terms of this chapter, all money paid into the reserve account by the lender shall remain in that account.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.11; P.L.24-1995, SEC.21; P.L.227-1999, SEC.10; P.L.273-1999, SEC.198; P.L.14-2000, SEC.11.*

Repealed

*(Repealed by P.L.18-1992, SEC.28.)*

#### **IC 4-4-26-27**

##### **Reserve fund; withdrawal; investment; earned interest or income**

Sec. 27. (a) All money credited to the reserve fund is under the exclusive control of the authority. The authority may not withdraw money from the reserve fund, except as specifically provided in this chapter.

(b) If money in the reserve fund is not deposited by the authority in an account with the lender, the money must be invested or reinvested by the authority in one (1) of the following:

(1) Direct obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States.

(2) A deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(c) All interest earned in a reserve fund account shall be credited to that account. Fifty percent (50%) of the interest earned may be withdrawn by the authority from that account and used for any purpose.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.12; P.L.27-1993, SEC.4.*

#### **IC 4-4-26-28**

##### **Pledge by authority to lender**

Sec. 28. The authority shall pledge the following to the lender:

(1) The money in the reserve fund will be available to pay claims under section 30 of this chapter.

(2) The lender will have a first security interest in the money in the reserve fund to pay the claims.

(3) The authority will not encumber or pledge the money to any other party.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-29**

##### **Quarterly transaction reports from authority to lender; records; inspection**

Sec. 29. (a) If the reserve fund is not maintained with the lender, the authority shall provide to the lender quarterly transaction reports indicating the following:

(1) The balance in the reserve fund.

(2) Payments and transfers into the reserve fund.

(3) Withdrawals from the reserve fund.

(4) Interest or income earned on money credited to the reserve

fund.

(b) The records of the authority with respect to all:

- (1) payments and transfers into the reserve fund;
- (2) withdrawals from the reserve fund; and
- (3) interest or income earned on the money credited to the reserve fund;

are available to the lender at the offices of the authority during normal business hours.

*As added by P.L.16-1991, SEC.4.*

#### **IC 4-4-26-30**

##### **Claims against authority for loans charged off**

Sec. 30. (a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the authority. The claim must be filed contemporaneously with the charge-off.

(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half (1/2) of the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts, including preservation of collateral. The amount of principal included in the claim may not exceed the principal amount covered under the program. The amount of accrued interest included in the claim may not exceed the accrued interest attributable to the covered principal amount.

(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with the lender's normal method for making these determinations on similar loans that are not enrolled loans.

(d) If the lender files two (2) or more claims contemporaneously and there are insufficient funds in the reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the authority shall pay the claims.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.13.*

#### **IC 4-4-26-31**

##### **Satisfaction or denial of claim; insufficient reserve fund**

Sec. 31. (a) Upon receipt by the authority of a claim filed by the lender, the authority shall, within ten (10) business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the authority reasonably determines that:

- (1) the information provided by the lender to the authority under this chapter was known by the lender to be false; or
- (2) the lender is not otherwise in substantial compliance with this chapter or the agreement with the authority.

(b) If there is insufficient money in the reserve fund to cover the

entire amount of the lender's claim, the authority shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund, and the following shall apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the enrolled loan for which the claim has been filed is an early loan, the authority, upon request of the lender, shall, out of any future funds that are transferred into the reserve fund on subsequently enrolled loans, pay the remaining balance of the claim upon finding that:

(A) the partial payment has not satisfied the lender's claim; and

(B) the remaining balance of the claim is not greater than seventy-five percent (75%) of the balance in the reserve fund at the time the request for payment by the lender is received by the authority.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.14.*

#### **IC 4-4-26-32**

##### **Recovery of charged-off loan; reimbursement of reserve fund**

Sec. 32. If, subsequent to payment of a claim by the authority, the lender recovers from a borrower any amount for which payment of the claim was made, the following shall apply:

(1) If the recovered amount, when added to the claim previously paid by the authority in connection with an enrolled loan, exceeds the lender's loss on that enrolled loan, the lender shall promptly pay to the authority for deposit in the reserve fund the amount of the excess.

(2) For the purposes of this section and section 34 of this chapter, the lender's loss on an enrolled loan shall be the amount of principal charged off by the lender plus accrued interest plus one-half (1/2) of the reasonable and documented out-of-pocket expenses incurred by the lender in pursuing collection efforts.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.15.*

#### **IC 4-4-26-33**

##### **Repealed**

*(Repealed by P.L.18-1992, SEC.28.)*

#### **IC 4-4-26-34**

##### **Authority's right of subrogation**

Sec. 34. (a) If the payment of a claim has fully covered the

lender's loss on an enrolled loan or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the authority, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the authority any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.

(b) If an assignment has been made under subsection (a), the authority is not required to undertake the obligations of the lender under the lender's loan documents, except for obligations directly related to the authority's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations the lender has under the loan documents in the same manner and to the same degree as would be required if the assignment had not been made. The lender shall provide the authority with all reasonable assistance the authority requests in proceeding with respect to any collateral, security, or other right of recovery, except that the lender does not need to incur any out-of-pocket expenses.

(c) If the authority desires to exercise the right of subrogation in connection with an enrolled loan, and would be entitled to exercise that right except that the lender's loss has not been fully covered, the authority, at the authority's option, may pay from funds in the reserve fund an amount sufficient to result in the lender's loss being fully covered. A payment under this subsection may cover a principal amount not covered under the program or not included in the lender's claim. Upon making a payment under this subsection, the authority is subrogated to the rights of the lender in accordance with subsection (a).

(d) Notwithstanding any other provision of this section, the authority may not exercise the right of subrogation unless the authority determines, in the authority's discretion, that the lender has not exercised reasonable care and diligence in collection activities with respect to the loan, or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to those collection activities.

*As added by P.L. 16-1991, SEC.4. Amended by P.L. 18-1992, SEC.16; P.L. 27-1993, SEC.5.*

#### **IC 4-4-26-35**

##### **Quarterly and year-end reports from lender to authority on enrolled loan balances; withdrawals of excess reserve funds**

Sec. 35. (a) Before July 16, October 16, January 16, and April 16 of each year, the lender shall file a quarterly report with the authority indicating the number and aggregate outstanding balances of all

enrolled loans for the period of the three (3) preceding calendar months. A quarterly report is not required for a quarter that ends with a balance in the reserve fund of zero (0), except that a year-end report must be filed before July 16 for the preceding twelve (12) calendar months ending June 30. In computing the aggregate outstanding balance of all enrolled loans, the balance of a loan may not be greater than the covered amount of the loan as enrolled.

(b) If a year-end report filed under this section indicates that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the aggregate outstanding balance of all enrolled loans, including unfunded portions of enrolled loans that are lines of credit, the authority may make a withdrawal from the reserve fund. The amount of the withdrawal may not be greater than the minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the authority under this section may be used for any purpose.

(c) If a year-end report is not filed within thirty (30) days of the original due date of the report, the authority may make a withdrawal from the reserve fund based on the authority's determination from an inspection of the lender's files that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the aggregate outstanding balance of all enrolled loans, including unfunded portions of enrolled loans that are lines of credit. The amount of the withdrawal may not be greater than the minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the authority under this section may be used for any purpose.

(d) The right of the authority to make a withdrawal from the reserve fund under subsection (b) or (c) is subject to the following provisions:

(1) If a year-end report is filed by July 16 or not more than thirty (30) days after July 16, the authority has the right of withdrawal for a period of ninety (90) days from the date of the filing of the report with the authority.

(2) If a year-end report is not filed by July 16 or not more than thirty (30) days after July 16, the authority has the right of withdrawal for a period of ninety (90) days from the date the authority determines from an inspection of the lender's files that the authority is entitled to make a withdrawal from the reserve fund under this section.

*As added by P.L. 16-1991, SEC.4. Amended by P.L. 18-1992, SEC.17;*

*P.L.27-1993, SEC.6.*

**IC 4-4-26-36**

**Termination of program; grounds; effective date; notice; effect**

Sec. 36. The authority may terminate the obligation to a lender to enroll loans under the program if the authority determines that the lender is not in substantial compliance with the requirements of the program or the requirements of section 24 of this chapter. The termination takes effect on the date specified in the notice of termination, except that the termination does not apply to a loan made on or before the date on which the notice of termination is received by the lender. If the authority is terminating the enrollment of loans for all participating lenders under the program, the authority shall provide at least ninety (90) days notice to the lender. A termination under this section is prospective only and does not apply to a loan previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.

*As added by P.L.16-1991, SEC.4. Amended by P.L.18-1992, SEC.18.*

**IC 4-4-26-37**

**Capital access account; establishment**

Sec. 37. (a) The authority shall establish a capital access account. The authority shall use the capital access account to carry out the provisions of the capital access program. The capital access account consists of all money that is:

- (1) appropriated by the general assembly;
- (2) transferred by the authority from the industrial development guaranty fund; or
- (3) transferred by the authority from the general funds of the authority.

(b) The expenses of the authority attributable and allocated by the authority to the capital access program shall be paid from the capital access account.

*As added by P.L.18-1992, SEC.19.*